

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

UNITED STATES OF AMERICA,

Plaintiff,

Civil No. 25-cv-00157

vs.

THE UNKNOWN HEIRS, DEVISEES, OR
LEGATEES OF EARL CRUTCHER, DECEASED
and MARY F. CRUTCHER, DECEASED; JUANITA
L. MULLER; RAMONA E. CRUTCHER; DELIA Y.
POLANCO; THE CITY OF ALBUQUERQUE and/
or THE ALBUQUERQUE WATER UTILITY
AUTHORITY; MIDLAND CREDIT MANAGEMENT,
INC.; and OCCUPANTS, WHOSE TRUE NAMES
ARE UNKNOWN, IF ANY,

Defendants.

COMPLAINT

The United States of America for its Complaint against the Defendants states the following:

1. This action is brought under 28 U.S. § 1345 and 12 U.S.C. § 1715 *et seq.* on behalf of the United States Department of Housing and Urban Development (“HUD”), an agency of the United States, by the United States Attorney, District of New Mexico, as authorized by the Attorney General.
2. Venue properly lies within this Court’s district.
3. On or about November 5, 2010, Earl Crutcher and Mary F. Crutcher executed and delivered to Urban Financial Group, its successors and assigns, a Closed End Fixed Rate Note (Home Equity Conversion) (“Note”) evidencing a debt, up to a maximum amount of Two Hundred Eighty-Three Thousand Five Hundred and 00/100 Dollars (U.S. \$283,500.00), with

fixed interest from the date of the Note at the original Note rate of 5.060% per year. A copy of the Note is attached hereto as “Exhibit A” and made a part hereof as if fully set forth herein.

4. On or about November 5, 2010, Earl Crutcher and Mary F. Crutcher executed and delivered to the Secretary of Housing and Urban Development a Closed End Fixed Rate Second Note (Home Equity Conversion) (“Second Note”) evidencing a debt, up to a maximum amount of Two Hundred Eighty-Three Thousand Five Hundred and 00/100 Dollars (U.S. \$283,500.00), with fixed interest from the date of the Note at the original Note rate of 5.060% per year. A copy of the Note is attached hereto as “Exhibit B” and made a part hereof as if fully set forth herein.

5. Simultaneously with the execution and delivery of the Note, and in order to secure the payment of said Note, Earl Crutcher and Mary F. Crutcher executed and delivered to Mortgage Electronic Registration Systems Inc. (“MERS”) and Urban Financial Group a Fixed Rate Home Equity Conversion Deed of Trust, a copy of which is attached hereto as “Exhibit C” and made a part hereof as if fully set forth herein (“Mortgage”). Said Mortgage was duly recorded on November 15, 2010, as Document 2010115647, Records of Bernalillo County, New Mexico.

6. Simultaneously with the execution and delivery of the Second Note, and in order to secure the payment of said Note, Earl Crutcher and Mary F. Crutcher executed and delivered to the Secretary of the Department of Housing and Urban Development a Fixed Rate Home Equity Conversion Second Deed of Trust, a copy of which is attached hereto as “Exhibit D” and made a part hereof as if fully set forth herein (“Second Mortgage”). Said Mortgage was duly recorded on November 15, 2010, as Document 2010115648, Records of Bernalillo County, New Mexico.

7. The Mortgages are valid liens on the following-described real property (“Real Property”) subject only to any outstanding ad valorem taxes and liens recorded pursuant to NMSA § 3-36-1 et seq.:

Lot numbered Four (4) in Block numbered Five (5) of Snow Heights, an Addition to the City of Albuquerque, New Mexico, as the same is shown and designated on the Plat of Blocks 1 and 21 of said addition, filed in the office of the County Clerk of Bernalillo County, New Mexico, on February 9, 1953.

More commonly known as: 1714 Utah Street Northeast, Albuquerque, NM 87110.

8. MERS, as Nominee for Urban Financial Group, its Successors and Assigns, conveyed and assigned its interest in the Note and Mortgage to the Secretary of Housing and Urban Development, an agency of the United States of America, on or about May 22, 2018. Said Assignment of Mortgage was recorded in the Records of Bernalillo County, New Mexico, on June 11, 2018, as Document 2018050862, a copy of which is attached hereto as “Exhibit E” and made a part hereof as if fully set forth herein.

9. Upon information and belief Earl Crutcher died on February 8, 2020, and Mary F. Crutcher died on June 21, 2021.

10. Upon information and belief, Juanita L. Muller, Ramona E. Crutcher, and Delia Y. Polanco are possible heirs of Earl Crutcher and/or Mary F. Crutcher.

11. There may be other persons unknown to Plaintiff who may make some claim of interest or right in and to the Real Property as heirs of Earl Crutcher and Mary F. Crutcher. Plaintiff has made a diligent search and inquiry to ascertain the names, residences, or whereabouts of such persons, however, such information is unknown and cannot be ascertained. Further, such parties have been made Defendants in this cause under the name and style as: The Unknown Heirs, Devisees, or Legatees of Earl Crutcher, Deceased, and Mary F. Crutcher, Deceased.

12. Under paragraph 9 of the Mortgage and paragraph 6 of the Note, default occurred on the date of death of Borrower Mary F. Crutcher, and because Borrower Earl Crutcher predeceased her, the Real Property was no longer the principal residence of at least one surviving borrower.

13. The Mortgage provides that in the event of default of the Note, the Mortgage is subject to foreclosure as provided by law. The Note is in default, and the United States is entitled to have the Mortgage foreclosed. All conditions precedent to enforcement of the Note and foreclosure of the Mortgage have occurred.

14. Defendant Occupants, Whose True Names are Unknown, if any, may claim an interest in the subject Real Property by reason of possession of the Real Property.

15. Defendant Juanita L. Muller and Ramona E. Crutcher may claim an interest in the subject Real Property by way of a Transfer on Death Deed, dated April 16, 2019, and recorded on April 30, 2019, as Document 2019a034876, in the records of Bernalillo County, New Mexico, a copy of which is attached hereto as “Exhibit F” and made a part hereof as if fully set forth herein.

16. Defendant The City of Albuquerque and/or Albuquerque Bernalillo County Water Utility Authority may claim an interest in the subject Real Property by way of Claim of Lien recorded on May 6, 2024, as Document 2024030250, in the Records of Bernalillo County, New Mexico, a copy of which is attached hereto as “Exhibit G” and made a part hereof as if fully set forth herein.

17. Defendant The City of Albuquerque may claim an interest in the subject Real Property by way of Certification of Substandard Building recorded on June 21, 2024, as Document 2024041809, in the Records of Bernalillo County, New Mexico, a copy of which is attached hereto as “Exhibit H” and made a part hereof as if fully set forth herein.

18. Defendant The City of Albuquerque may claim an interest in the subject Real Property by way of Claim of Lien for Boarding, Cleanup or Repair recorded on June 21, 2024, as Document 2024041810, in the Records Bernalillo County, New Mexico, a copy of which is attached hereto as “Exhibit I” and made a part hereof as if fully set forth herein.

19. Defendant Midland Credit Management, Inc., may claim an interest in the subject Real Property by way of Transcript of Judgment dated August 13, 2010, and recorded on August 26, 2010, as Document No. 2010086168 in the records of Bernalillo County, New Mexico, a copy of which is attached hereto as “Exhibit J” and made a part hereof as if fully set forth herein.

20. After all just credits and offsets are applied on the Note, there remains owing principal of \$125,560.46, plus additional interest on the principal balance in the amount of \$130, 398.69, plus MIP of \$32,213.03, for a total of \$288,172.18 as of July 12, 2024, plus interest accruing at the rate of 5.060% for a daily rate of \$43.90 from July 12, 2024, to the date of judgement, with interest accruing at the legal rate thereafter until paid, plus the amount of any advances, including ad valorem taxes, costs, expenses, and the United States District Court Clerk filing fee pursuant to 28 U.S.C. § 2412(a)(2).

WHEREFORE, the United States requests the following:

A. *In rem* judgment for principal and accrued interest and costs to July 12, 2024, in the amount of \$288, 172.18, plus interest accruing from July 12, 2024, at the daily rate of \$43.90 to the date of judgment, plus interest thereafter at the legal rate until paid, plus the amount of any advances, including ad valorem taxes, costs, expenses, and the United States District Court Clerk filing fee pursuant to 28 U.S.C. § 2412(a)(2);

B. The Mortgage be foreclosed;

C. The United States' lien on the Real Property be declared a valid lien subject to any outstanding taxes and/or liens recorded pursuant to N.M.S.A. § 3-36-1 *et seq.*;

D. The Court appoint the United States Marshal as receiver to take possession of, advertise, and sell the Real Property to satisfy the outstanding indebtedness to the United States together with all costs and expenses of the foreclosure sale;

E. The sale be conducted by the Marshal for cash unless the United States should be the highest and best bidder in which case the United States shall be allowed up to the amount of its judgment as credit on its bid;

F. The Marshal submit a report of the sale to the Court for approval and, upon approval of the report, the Marshal be released and discharged;

G. The purchaser at the foreclosure sale take immediate possession and title to the Real Property free and clear of any and all claims of any of the defendants;

H. The proceeds of the sale be applied as follows: First, to the payment of the costs and expenses of foreclosure, taxes, advances and applicable statutory fees; next, to the payment and satisfaction of the judgment of the United States; and the balance, if any, to the registry of the Court pending further order or judgment of this Court;

I. All rights, claims, interests, title, or equity of any defendant and any person claiming through any defendant be barred and foreclosed as to the Real Property;

J. The redemption period be 30 (thirty) days from the date of the sale;

K. For such other and further relief as the Court deems just and proper.

Respectfully submitted,

ALEXANDER M.M. UBALLEZ
United States Attorney

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